

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

NICHOLAS BIGLEY,

Plaintiff,

v.

Civil Action No. 1:23-cv-68

MORGANTOWN SHERIFF DEPT.,
et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 7]
AND DISMISSING CASE WITHOUT PREJUDICE

On September 5, 2023, the pro se Plaintiff, Nicholas Bigley ("Plaintiff"), filed a Complaint against the Defendants. [ECF No. 1]. Pursuant to 28 U.S.C. § 636 and the local rules, the United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") reviewed the case in accordance with 28 U.S.C. § 1915(e)(2) [ECF No. 7].

On September 12, 2023, the Magistrate Judge entered a Report and Recommendation ("R&R") [ECF No. 7], recommending that Plaintiff's complaint [ECF No. 1] be dismissed without prejudice for failure to state a claim and that Plaintiff's motion to proceed in forma pauperis [ECF No. 2] be denied. The R&R informed the parties that they had fourteen (14) days plus an additional three (3) days from the date of the filing of the R&R to file "specific written objections identifying the portions of the Report and

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Recommendation to which objection is made, and the basis for such objection.” It further warned them that the “[f]ailure to timely file objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals.” ECF No. 7 at 8-9. Plaintiff accepted service on September 14, 2023. ECF No. 13. To date, no objections to the R&R have been filed.

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). An objection must be specific and particularized to warrant such review. See United States v. Midgette, 478 F.3d 616, 621-22 (4th Cir. 2007). Otherwise, the Court will uphold portions of a recommendation to which a general objection or no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Midgette, 478 F.3d at 622.

The Court has reviewed the R&R for clear error. Diamond, 416 F.3d at 315. Because the Court **FINDS** dismissal appropriate, the Court **ADOPTS** the R&R in its entirety [ECF No. 7], **DENIES** Plaintiff’s motion to proceed in forma pauperis [ECF No. 2], **DENIES AS MOOT** all other pending motions, and **DISMISSES WITHOUT PREJUDICE** Plaintiff’s complaint [ECF No. 1]. The Court **DIRECTS** the Clerk to strike this case from the Court’s active docket.

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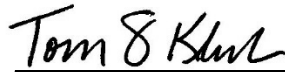
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It is so ORDERED.

The Clerk shall transmit copies of this Order to counsel of record via email and the pro se Plaintiff via certified mail, return receipt requested.

DATED: October 2, 2023

Handwritten signature of Thomas S. Klee in black ink.

THOMAS S. KLEE, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA